

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 06-1770

11 In re:

MDL No. MDL-1770

12
13 **WELLS FARGO HOME MORTGAGE**
14 **OVERTIME PAY LITIGATION**

STIPULATION AND [PROPOSED]
ORDER RE: COMMUNICATIONS WITH
PUTATIVE CLASS MEMBERS

15
16 This document relates to ALL CASES
17
18
19

20 **STIPULATION AND PROPOSED ORDER**

21 MARILYN HALL PATEL, United States District Judge:
22

23 AND NOW, on this _____ day of _____, 2006, the parties having
24 stipulated, it is **ORDERED**, as follows:

25
26 **LIMITATION ON CONTACT WITH PUTATIVE CLASS MEMBERS**

27 1. No contact with any putative class member by any party or the agent of any party
28 shall be permitted except as provided in this order.

2. The Court's prior orders regarding contact with putative class members are hereby vacated and replaced with this order.

WEBSITES

3. The parties may each establish a website in which they describe their positions in the lawsuit ("Website"). Any Website will hyperlink to the opposing side's website and will encourage viewers to follow the link if they desire more information. The parties are free to discuss the case with any putative class members who contact them through their respective Websites. Before posting any content to their respective Websites, the parties shall first provide the proposed content to the opposing side for comment. The opposing side shall have five business days to make any objections to the content. If no objections are made, the content may be posted. If an objection is timely made, the parties shall meet to informally resolve the dispute within five business days. If the dispute cannot be resolved informally, the parties may apply to the Court for resolution through a conference call. No content is to be posted until the dispute is resolved.

AFFIRMATIVE CONTACT WITH PUTATIVE CLASS MEMBERS

4. Admonitions. Other than the websites permitted herein, the parties may attempt to initiate affirmative contact with putative class members only subject to the following conditions.

A. Any party seeking to contact a putative class member for an interview must inform the putative class member orally at the outset of the contact: (1) that the putative class member is free to talk or not to talk with Plaintiffs' or Wells Fargo's lawyers, (2) that he or she will not receive any benefit nor will suffer any detriment as a result of talking to either side's lawyers, or for refusing to do so; and (3) of the contact information for the opposing party. This same disclaimer shall be given in writing or via email within one business day and before the interviewee signs any declaration.

B. Any contact with putative class members by the defendant is subject to these additional restrictions that must also be provided to the putative class member orally at the outset of the communication: (1) no employer representative of Wells Fargo including in-house counsel may be present for any contact, and if the contact is by telephone counsel shall take reasonable steps to ensure that no employer representative of Wells Fargo is

1 participating in or monitoring the interview; (2) no in-person interviews of putative class
 2 members are permitted on Wells Fargo's premises, except that a putative class member may
 3 be interviewed by telephone while the putative class member is on Wells Fargo's premises.
 4 This additional disclaimer shall be given in writing or via email within one business day and
 5 before the interviewee signs any declaration.

6 C. Reasonable steps to insure that no employer representative of Wells Fargo is
 7 present during the interview, include (a) making sure the employee has privacy while
 8 speaking, (b) asking the employee whether any supervisor or other employee is present, and
 9 (c) any other steps that may be appropriate in the circumstances.

10 D. Contact information for opposing parties is as follows:

11 For Plaintiffs:

12 Callahan, McCune & Willis, APLC
 13 Attn: Charles Russell
 14 111 Fashion Lane
 15 Tustin, California 92780-3397
 16 Telephone: (714) 730-5700
 17 Facsimile: (714) 730-1642
 18 Email: charles_russell@cmwlaw.net
 19 Website: to be determined

20 Stueve Siegel Hanson Woody LLP
 21 Attn: George A. Hanson
 22 330 West 47th Street
 23 Kansas City, Missouri 64112
 24 Telephone: (816) 714-7115
 25 Facsimile: (816) 714-7101
 26 Email: hanson@sshwlaw.com
 27 Website: to be determined

28 Hoffman & Lazear
 Attn: Tim Hoffman
 180 Grand Ave. Suite 1550
 Oakland, California 94612
 Telephone: (510) 763-5700
 Facsimile: (510) 835-1311
 Email: hth@hoffmanandlazeear.com
 Website: to be determined

For Defendants

Littler Mendelson, A Professional Corporation
 Attn: Lindbergh Porter
 650 California Street, 20th floor
 San Francisco, California 94108-2693
 Telephone: (415) 433-1940
 Facsimile: (415) 399-8490
 Email: lporter@littler.com
 Website: to be determined

5. Neutral Administrator. The Court appoints Rust Consulting, Inc. as the neutral administrator ("Administrator") to perform the duties as described herein. The parties are to share the costs of the Administrator equally. The Administrator shall perform the duties outlined below impartially, and shall not disclose information to either party except as described below or as ordered by the Court.

6. Defendant's Contact Limited to 500 Putative Class Members. Defendant shall provide the Administrator with a list of the 500 putative class members whom it may attempt to initiate affirmative contact. Defendant shall not initiate any contact with any putative class member until it has provided the Administrator with this list, and shall not attempt to contact any putative class member who is on this list.

7. Plaintiffs' Contact Limited to 500 Putative Class Members. Within ten days of this order being entered, Defendant shall provide the Administrator with a computer-readable and editable list of all the putative class members, including their names, last known home address, last known telephone number, job title(s) at Wells Fargo Home Mortgage, work location(s) at Wells Fargo Home Mortgage, type of office location (e.g., office building, retail storefront, Wells Fargo Bank branch, etc.) dates of employment for each loan originator position (e.g., reverse-mortgage, prime, non-prime, etc.). held at Wells Fargo Home Mortgage, and whether the putative class member is a current or former employee of Wells Fargo Home Mortgage.

Plaintiffs may provide the Administrator with a set of search criteria for selecting putative class members to whom they may attempt to initiate contact. Based on these search criteria the Administrator shall select 500 putative class members and provide Plaintiffs' counsel with a

computer-readable and editable list containing all the information described above for each of the 500 putative class members. Plaintiffs shall not initiate any contact with any putative class member until they have received this list, and shall not attempt to contact any putative class member who is not on this list.

It is so stipulated.

by Charles Russell, for Plaintiffs

Date

11/22/2006

by George Hanson, for Plaintiffs

Date

11/27/06

by H. Tim Hoffman, for Plaintiffs

Date

NOV 20, 2006

by Lindbergh Porter, for Wells Fargo

Date

November 30, 2006

It is so ordered.

Marilyn Hall Patel
United States District Judge

12/6/06

Date

~~Dated: November~~ _____, 2006

~~LINDBERGH PORTER-
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant~~

Firmwide:81683419.1 051995.1005